

S/L 22
01.07.2021
Court. No. 19
GB

W.P.A. 10815 of 2021

Mst. Nasfun Nehar
Vs.
State of West Bengal & Ors.

(Through Video Conference)

*Mr. Sukanta Chakrabarty,
Mr. Sagar Saha.*

...for the Petitioner.

Despite service none appears on behalf of the respondents. Mr. Sushovan Sengupta, learned senior Government advocate, who is present in Court virtually, is requested to appear in the matter with a junior of his choice, Mr. Subir Pal. Their appearances may be regularized.

The writ petition has been filed for a direction upon the respondents to allow the petitioner to resume services as the Child Development Project Officer, Kaliachak-I, I.C.D.S. Project.

The contention of the petitioner is that, although the petitioner was suspended from service sometime in June, 2019, no disciplinary proceeding has yet been initiated. The petitioner relies on a decision of the Hon'ble Apex Court, wherein it has been held that in most cases, the charge-sheet should be issued at least within a period of three months from the date of suspension. According to the petitioner, the authorities should not be permitted to keep the petitioner under prolonged suspension. Records also reveal that the

petitioner had made a prayer for withdrawal of the suspension order.

Mr. Sushovan Sengupta submits that there is no hard and fast rule as to the period within which the charge-sheet should be issued to a suspended employee. His further submission is that, the service rules governing the petitioner's service does not provide a time limit within which the charge-sheet is to be issued, unlike certain other services.

Heard the parties. The document sought to be relied upon by the petitioner dated February 4, 2020, issued by the Director of I.C.D.S., Government of West Bengal, reveals that the Government was unable to proceed with the prayer for withdrawal of suspension due to non-availability of some orders of this Court.

Be that as it may, the merits of the claims of the parties with regard to the involvement of the petitioner in the alleged misconduct, which is also the subject matter of a criminal proceeding is not to be looked into by this Court under judicial review at this stage.

However, the contention of the petitioner that the charge-sheet should be issued mandatorily within three months from the date of suspension, is not a universal rule. Yet, it goes without saying that it is a settled principle of law, that an employee cannot be kept under suspension for years together as the same amounts to a punishment of one kind.

Under such circumstances, the writ petition is disposed of, without going into the merits of the claims and counter-claims of the parties and with the liberty granted to the respondents to conclude the disciplinary proceeding, if subsequently initiated, within a period of six months from date of communication of this order. Such direction shall not prevent the respondents from considering the prayer of the petitioner for withdrawal of suspension, which shall be decided in accordance with law.

Accordingly, the writ petition is disposed of.

There will be however no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)